



PHS

Pima Health System

Karen L. Fields, Director

3950 S. Country Club Road, Suite 400 • Tucson, Arizona 85714 • (520) 243-8000

May 23, 2008

Mr. Michael Veit
Contracts and Purchasing Section
Arizona Health Care Cost Containment System
701 East Jefferson, MD 5700
Phoenix, Arizona 85034

Re: Protest of RFP No. YH09-0001

Dear Mr. Veit:

This letter serves as Pima Health System's ("PHS") official protest of RFP No. YH09-0001 ("the RFP") as required by Section E, paragraph 26 of the RFP and A.A.C. R9-22-604. In particular, based on the information available to date, the RFP and its resulting proposed awards do not comply with R9-22-603, A.R.S. §36-2906, 42 C.F.R. §§ 438.6, 438.116, 438.206 and 438.207, as well as fundamental rights of due process and equal protection afforded by the United States and Arizona Constitutions.

For many years, including this one, AHCCCS required offerors to base their capitation calculations on data actually experienced in the GSA and by the offeror, if applicable. Inexplicably, the day before responses were due, AHCCCS substantially and arbitrarily changed this essential cornerstone of risk assessment and price calculation and required offerors to ignore actual data and instead base their responses on fictional, untested data designed to reflect the "average recipient". AHCCCS further frustrated the offerors' ability to provide accurate and sound pricing figures by announcing that whatever bid rates the offerors gave would be risk adjusted using an unknown risk adjustment model developed for other states whose managed care models differ materially from the model used in Arizona. Naturally, the offerors were confused and posed sixty-eight questions of AHCCCS, including the reason for the sudden change. Unfortunately, AHCCCS did not respond to the questions posed of it until April 10, giving the offerors approximately a week to reformulate their pricing. Further, the answers provided by AHCCCS to many key questions were unresponsive. For example, when asked why there was a need to change the RFP, AHCCCS responded "At this time, AHCCCS is not disclosing the reason for the amendment." See question and answer #13 to the April 10, 2008 questions and responses document posted in the bidders' library. Another example of AHCCCS' failure to follow their own rules is their failure to post the March 25, 2008 inquiry made by Southwest Catholic Health Network and the response thereto in the bidders' library as required by Section I Instructions to Bidders, paragraph 1 of the RFP.

One thing that was clear is that by requiring the offerors to utilize “average” data rather than actual data, AHCCCS was attempting to manipulate the pricing to result in lower rates. AHCCCS’ strategy, in that regard, was successful. However, the true effect of these extraordinary changes and the manner in which they were administered, was the forced submission by the majority, if not all offerors, of actuarially questioned responses. See the attached actuary certifications from all but one of the offerors responding for GSA 10.¹

PHS was not able to determine the extent of any harm to it or to the state’s Medicaid population until AHCCCS announced its intent to award and made the scoring and other key information, such as the actuary certifications, public.

A review of the scoring data reveals that not only did AHCCCS encourage the submission of actuarially unsound responses, it actually rewarded those entities with the most unrealistic projections by giving greater weight to the initial responses rather than those derived as a result of the best and final offer period when the offerors had better, but still incomplete, information. AHCCCS’ complete disregard of its requirement to select only actuarially sound proposals is evidenced by its answer to question #3 in its April 10 responses to offerors’ questions “AHCCCS will allow qualification statements in the actuarial certification and the Offeror will not be evaluated negatively as a result.” Clearly, actuarially unsound proposals are not responsive within the meaning of A.A.C. R9-22-603 and an award of a contract to an entity with an actuarially unsound plan is a violation of 42 C.F.R. §438.6.

More significantly, an award of a contract based on unsound principles is a violation of the Medicaid recipients’ rights to access to care and is a breach of the duty owed to this particularly vulnerable and statutorily protected population. If AHCCCS and the entities to which it awards contracts as a result of this RFP are allowed to proceed using unsound financial plans, the people of Arizona can expect to see a result similar to that recently experienced in the finance industry. That is, the repeated failure of entity after entity because of fiscal irresponsibility. Awarding contracts based on fictional and flawed data and analysis is not in the best interest of the State and is contrary to the spirit of A.A.C. R9-22-603.

The anticipated failure of entities who attempt to operate using pricing created for a non-existent population will be accelerated and exacerbated by AHCCCS’ insistence on the retroactive application of the risk adjustment formula at 80% rather than utilizing a phased-in application of risk adjustment. The experience documented in other states that utilize a risk adjustment model demonstrates that because of provider coding

¹ PHS requested the actuarial certification submitted by University Family Care but AHCCCS refused to disclose the document citing UFAM’s designation of the document as proprietary. Whether such refusal is a violation of Arizona’s public record statutes is an issue reserved for a later date as is discussion of the implications and inferences to be drawn from such a claim by an entity requesting hundreds of millions of taxpayer dollars.

inconsistencies that arise during the first year of implementation, the process results in inaccurate risk scores which in turn directly effects and taints plan funding. An award based on the RFP will likely result in increased costs to Arizona for less care.

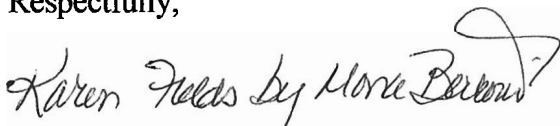
For the foregoing reasons, PHS requests that AHCCCS exercise its discretion as set forth in A.A.C. R9-22-602(D) and R9-22-604 (E) and (H) to cancel the proposal, stay the award of any contract pending resolution of this protest and fashion the most appropriate remedy under the circumstances and as provided by law.

As you know, Pima County through PHS has a long standing relationship with AHCCCS which we value. It is because PHS is committed to ensuring the well-being of its members and the health of the County's citizens that we feel compelled to bring these grave concerns to your attention via a formal protest.

Any questions or communications should be directed to:

Karen Fields
Director Pima Health Systems
3950 S. Country Club Way, Suite 400
Tucson, Arizona 85714
(520) 243-8385

Respectfully,

A handwritten signature in cursive script, appearing to read "Karen Fields by Monica Berland".

Karen Fields

PJP/

Encl.

C: Chuck Huckelberry, Pima County Administrator
Dennis Douglas, Deputy County Administrator
Paula J. Perrera, Deputy County Attorney
Rodd Mas, Manager of Acute Care Operations, AHCCCS